

**ASSEMBLY BILL**

**No. 1107**

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**Introduced by Assembly Member Blakeslee**

February 27, 2009

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An act to amend Section 57004 of the Health and Safety Code, relating to environmental protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 1107, as introduced, Blakeslee. Environmental protection: California Environmental Protection Agency: rules: scientific peer review.

Existing law requires the California Environmental Protection Agency, or a board, department, or office within the agency, to enter into an agreement with the National Academy of Sciences, the University of California, the California State University, or any similar scientific institution of higher learning, or any combination of those entities, or with a scientist or group of scientists of comparable stature and qualifications that are recommended by the President of the University of California, to conduct an external scientific peer review of the scientific basis for any rule, as defined to include specified regulations and policies, proposed by any board, department, or office within the agency, and prescribes procedures for conducting that scientific peer review.

This bill would make technical, nonsubstantive changes to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 57004 of the Health and Safety Code is amended to read:

57004. (a) For purposes of this section, the following terms have the following meanings:

(1) “Rule” means either of the following:

(A) A regulation, as defined in Section 11342.600 of the Government Code.

(B) A policy adopted by the State Water Resources Control Board pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) that has the effect of a regulation and that is adopted in order to implement or make effective a statute.

(2) “Scientific basis” and “scientific portions” mean those foundations of a rule that are premised upon, or derived from, empirical data or other scientific findings, conclusions, or assumptions establishing a regulatory level, standard, or other requirement for the protection of public health or the environment.

(b) The agency, or a board, department, or office within the agency, shall enter into an agreement with the National Academy of Sciences, the University of California, the California State University, or any similar scientific institution of higher learning, any combination of those entities, or ~~with~~ a scientist or group of scientists of comparable stature and qualifications ~~that is~~ recommended by the President of the University of California, to conduct an external scientific peer review of the scientific basis for ~~any~~ a rule proposed for adoption by ~~any~~ a board, department, or office within the agency. The scientific basis or scientific portion of a rule adopted pursuant to Chapter 6.6 (commencing with Section 25249.5) of Division 20 or Chapter 3.5 (commencing with Section 39650) of Division 26 shall be deemed to have complied with this section if it complies with the peer review processes established pursuant to these statutes.

(c) ~~No~~ A person ~~may~~ *shall not* serve as an external scientific peer reviewer for the scientific portion of a rule if that person participated in the development of the scientific basis or scientific portion of the rule.

1 (d) ~~No~~A board, department, or office within the agency shall  
2 *not* take any action to adopt the final version of a rule unless all  
3 of the following conditions are met:

4 (1) The board, department, or office submits the scientific  
5 portions of the proposed rule, along with a statement of the  
6 scientific findings, conclusions, and assumptions on which the  
7 scientific portions of the proposed rule are based and the supporting  
8 scientific data, studies, and other appropriate materials, to the  
9 external scientific peer review entity for its evaluation.

10 (2) The external scientific peer review entity, within the  
11 timeframe agreed upon by the board, department, or office and the  
12 external scientific peer review entity, prepares a written report that  
13 contains an evaluation of the scientific basis of the proposed rule.  
14 If the external scientific peer review entity finds that the board,  
15 department, or office has failed to demonstrate that the scientific  
16 portion of the proposed rule is based upon sound scientific  
17 knowledge, methods, and practices, the report shall state that  
18 finding, and the reasons explaining the finding, within the  
19 agreed-upon timeframe. The board, department, or office may  
20 accept the finding of the external scientific peer review entity, in  
21 whole, or in part, and may revise the scientific portions of the  
22 proposed rule accordingly. If the board, department, or office  
23 disagrees with any aspect of the finding of the external scientific  
24 peer review entity, it shall explain, and include as part of the  
25 rulemaking record, its basis for arriving at ~~such a~~ *that* determination  
26 in the adoption of the final rule, including the reasons why it has  
27 determined that the scientific portions of the proposed rule are  
28 based on sound scientific knowledge, methods, and practices.

29 (e) The requirements of this section do not apply to any  
30 emergency regulation adopted pursuant to subdivision (b) of  
31 Section 11346.1 of the Government Code.

32 (f) ~~Nothing in this~~ *This section shall be interpreted to, in any*  
33 ~~way,~~ *does not* limit the authority of a board, department, or office  
34 within the agency to adopt a rule pursuant to the requirements of  
35 the statute that authorizes or requires the adoption of the rule.